In the High Court of Judicature at Madras

Dated: 20.02.2007

Coram:

The Honourable Mr.Justice P.SATHASIVAM

and

The Honourable Mr.Justice N. PAUL VASANTHAKUMAR

Writ Petition No.46513 of 2006

Rams Flat Owners' Association
West Mambalam rep. By its
Secretary Mr. V. Ramesh. ..Petitioner

..vs..

1.The Member Secretary
Chennai Metropolitan
Development Authority
Gandhi Irwin Road
Egmore, Chennai 600 008.

2.P. Krishnamurthy
3.K. Jayashree ..Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Mandamus as stated therein.

For Petitioner : Mr. P. Mathivanan

For Respondents : Mr. J. Ravindran for R.1

No appearance for R.2 & R.3

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ORDER

(Order of the Court was made by P.SATHASIVAM,J.)

Rams Flat Owners' Association, West Mambalam through its Secretary has approached this court to issue a writ of mandamus directing the first respondent to enforce and give effect to its demolition notice dated 04.01.2005 in letter No.00089 as against the unauthorised construction put up by the second and third respondents, being the subject matter of the above demolition notice.

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2. Considering the grievance of the petitioner Association, we issued notice to respondents 2 and 3 through Court as well as privately. Notice sent through Court to respondents 2 and 3 were duly served even on 03.01.2007; however, they have not chosen to contest the writ petition by engaging a counsel.

3. Heard the learned counsel for the petitioner as well as first respondent.

4. It is brought to our notice that the second respondent herein, viz., P. Krishnamurthy, on receipt of the very same impugned notice, filed W.P.No.2236 of 2005 before this Court impleading the Chennai Metropolitan Development Authority as well as Rams Builder and Investments as respondents. Though the said writ petition was filed challenging the demolition notice dated 04.01.2005, during the course of hearing, the writ petitioner therein (second respondent herein) sought permission to withdraw his writ petition with liberty to move the civil court for proper and appropriate remedy. Recording the above statement, the learned single Judge granted permission and accordingly, the writ petition was dismissed as withdrawn.

5. The learned counsel appearing for the petitioner as well as the first respondent on verification reports that till this date respondents 2 and 3 herein have not filed civil suit questioning the demolition notice dated 04.01.2005. We afforded sufficient opportunity to respondents 2 and 3 to put forth their case. In view of the fact that they have not chosen to engage counsel and in the light of the information that till this date they have not approached the civil court as prayed before the learned single Judge, we permit the first respondent to proceed with the impugned notice dated 04.01.2005 in accordance with law.

The writ petition is ordered accordingly. No costs.

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Sd/
Asst. Registrar

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/true copy/

Sub Asst.Registrar

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To

The Member Secretary
Chennai Metropolitan
Development Authority
Gandhi Irwin Road
Egmore, Chennai 600 008.

1 CC TO MR.P. MATHIVANAN, ADVOCATE SR 15198

1 CC TO MR. J. RAVINDRAN, ADVOCATE SR 9952

Writ Petition No.46513/06

Dated:20.02.2007

SR(CO)

BP/27.2

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